REGISTERED No. M. 4631.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. III] Trivandrum, Thursday, 27th February 1958 [No. 23

CONTENTS

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1958.

NOTIFICATION.

No. LA. 4-335/58. *Dated, Trivandrum, 27th February 1958.*

The following Bill together with the Statement of Objects and Reasons is published as ordered by the Speaker under Rule 73 of the Rules of Procedure and conduct of business in the Assembly.

Legislature Secretariat,
Trivandrum.

V. KRISHNAMOORTHI,
Secretary, Legislative Assembly.

L. A. Bill No. 7 of 1958.

THE KERALA STAY OF EVICTION PROCEEDINGS (AMENDMENT) BILL, 1958

A

BILL

further to amend the Kerala Stay of Eviction Proceedings Act, 1957.

Preamble. WHEREAS it is expedient further to amend the Kerala Stay of Eviction Proceedings Act, 1957, for the purpose hereinafter appearing ;

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Stay of Eviction Proceedings (Amendment) Act, 1958.

(2) It shall come into force at once.

2. *Amendment of Section 1.*—In sub-section (3) of section 1 of the Kerala Stay of Eviction Proceedings Act, 1957 (Act 1 of 1957), for the words, figures and letters "the 11th day of April, 1958", the words, figures and letters "the 11th day of April, 1959" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The Kerala Stay of Eviction Proceedings Act, 1957, which was enacted to provide for the temporary protection of tenants, kudikidappukars and persons cultivating land on varam, sambalapattam or similar arrangements, pending the enactment of a comprehensive legislation relating to tenancy and agrarian reforms, is due to expire on the 11th April, 1958. Since the Kerala Agrarian Relations Bill, 1957, which seeks to enact the comprehensive legislation referred to, cannot become law before the 11th April, 1958, it is considered necessary to extend the term of operation of the Kerala Stay of Eviction Proceedings Act, 1957, until the above Bill becomes law. It is expected that the Bill will become law before April 1959. The term of the Kerala Stay of Eviction Proceedings Act, 1957, is therefore proposed to be extended for a further period of one year from the 11th April, 1958.

This Bill is intended to achieve the above object.

K. R. GOURI.

THE JENMIKARAM PAYMENT (ABOLITION) BILL, 1957.

Report of the Select Committee

The Select Committee to which the Jenmikaram Payment (Abolition) Bill was referred have considered the Bill clause by clause and now submit this, their report with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated 22nd November 1957.

3. The Bill was introduced in the Legislative Assembly on the 17th December 1957 and the motion for reference to a Select Committee was adopted on the same day.

4. The Committee held three sittings at Trivandrum. The Committee took evidence and received memoranda from representatives of institutions and individuals interested.

5. *Clause 4.* The Committee decided that it was necessary to specify the maximum rate of collection charges and accordingly "not exceeding 2½ per centum" has been inserted between the words "collection charges" and "shall be deducted" in the second sentence of Clause 4.

6. *Clause 10.* The Committee decided that a new sub-clause may be inserted after sub-clause (3) specifically providing that the jenmikaram officer shall hear and decide the case after considering the objections, on the day fixed by him.

Accordingly sub-clause (4) has been inserted and the existing sub-clause (4) has been renumbered as sub-clause (5).

7. *Clause 11.* The Committee decided the time for appeal may be fixed as thirty days and the time within which the High Court may revise the orders passed in appeal may be fixed as ninety days. Suitable changes have been made.

8. *Clause 14.* The Committee decided that the Kudiyan should be allowed to pay arrears of jenmikaram in six equal yearly instalments. The clause has been modified accordingly.

9. *Clause 24.* The Committee added sub-clause (5) to provide for laying the rules made under the Act before the Legislative Assembly.

The other changes made are either verbal or consequential.

K. R. Gouri,
Chairman of the Select Committee.

THE JENMIKARAM PAYMENT (ABOLITION) BILL, 1957.

Dissenting note to the Select Committee Report.

I differ from the majority report of the Select Committee on the following points: —

I. *Clause 1.* The Bill should be made to apply to the whole State with suitable modifications.

II. *Clause 2.* The Register of Jenmikarams should be (1) for Travancore area the register referred to in Section 40 B of the Travancore Jenmi Kudiyan Act of 1071; (2) for Cochin area the register that is being prepared under the Kanam Tenancy Act; and (3) for the Malabar area a register that will have to be prepared of Michavarams due in respect of each Kanam land.

In Malabar Kanam lands are sought to be dealt with under the Agrarian Relations Bill and the discriminatory treatment is thoroughly unjustified. Cochin area is left untouched.

III. *Clause 5.* The compensation should be paid in cash and that as soon as may be after the extinguishment of the Jenmy's right to receive Michakaram.

IV. *Clause 7.* Persons who have charges on the Michakaram should also be given opportunities to prove their claims before the compensation officer.

V. *Clause 11.* The limit of Ninety days fixed for the High Court to pass orders does not seem to be proper. If in a fit case the High Court is not able to pass orders in Ninety days, should justice suffer.?

VI. *Clause 14.* The obligation to receive existing arrears of Jenmikaram in six yearly instalments is an unnecessarily harsh condition imposed on the Jenmi and should be removed.

VII. Lands belonging to religious institutions may be excluded from the operation of this Bill. It has to be mentioned here that such lands in Malabar are sought to be excluded in the Agrarian Relations Bill from the operation of the provisions therein relating to ceilings and also to the right of tenants to purchase.

VIII. The scales of compensation fixed in the Bill are in my view too low. Rs. 3000, or 7000 per annum is not a very big income and 8 1/3 times the michavaram will only be reasonable. We have to remember that the members of Jenmi families have not had till now the right to compulsory partition and Rs 7000 or 10000 for a family may be only a few hundreds, for each member of the family. Therefore I suggest that instead of 7 times, 5 times and 4 times in clause (c), (d) and (e) of the scheduled 8 1/3 times, may be adopted. This becomes all the more necessary if temple lands are not excluded from the purview of the Bill. Further 8 1/3 times the Jenmikaram is sought to be realised from the tenants in consideration of the extinguishment of his liability to pay Michakaram.

A. Thanu Pillai,
Member, Select Commettee.

26-2-1958.

THE JENMIKARAM PAYMENT (ABOLITION) BILL, 1957

(As reported by the Select Committee)

A Bill for the abolition of Jenmikaram payable under the Travancore Jenmi and Kudiyan Act, 1071.

Preamble.—WHEREAS it is necessary, in public interest to abolish the recurring and periodical payment of jenmikaram to Jenmies under the Travancore Jenmi and Kudiyan Act of 1071 and to provide for the payment of a lump sum compensation to the Jenmis in lieu of such periodical payments and thus conferring on the Kudiyans full proprietary rights over their holdings and for other matters incidental thereto;

BE it enacted in the Ninth Year of the Republic of India as follows:—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Jenmikaram Payment (Abolition) Act, 1958.

(2) It extends to the whole of Travancore area in the State of Kerala.

(3) It shall come into force on such date as the Government may by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires—

(a) 'appointed day' means the day on which the Act comes into force;

(b) 'Compensation Officer' means the officer appointed under Section 21;

(c) the terms "jenmom land", "jenmi", "kudiyan", "kanappattam", "jenmikaram" and "holding" have the same meaning as in the Travancore Jenmi and kudiyan Act of 1071.

(d) "prescribed" means prescribed by rules under this Act.

(e) "register of jenmikarams" means the register of jenmikarams referred to in section 40B of the Travancore Jenmi and Kudiyan Act of 1071.

CHAPTER II.

Abolition of Jenmikaram and payment of compensation to Jenmies.

3. *Jenmikaram to be abolished.*—(1) From and after the commencement of this Act, notwithstanding anything contained in any law or contract for the time being in force, the Jenmi shall not have the right to receive payment of Jenmikaram and the Kudiyan shall have no liability to pay any Jenmikaram to the Jenmi and the right to receive payment of and the liability to pay Jenmikaram shall be extinguished.

(2) Every Jenmi whose right to receive payment of Jenmikaram has been extinguished under sub-section (1), shall be entitled to receive and be paid compensation by the Government as hereinafter provided.

4. *Amount of compensation to be paid.*—Government shall pay to every Jenmi whose right to receive payment of Jenmikaram has been extinguished, compensation according to the scales specified in the schedule. In computing the compensation payable, the collection charges not exceeding 2½ per centum shall be deducted from the Jenmikaram and the balance alone shall be multiplied as provided for in the schedule. The amount of compensation determined according to the scale specified above shall be deemed to have accrued due from the appointed day and interest thereon shall be payable at the rate of 4 per centum per annum from the appointed day till the date of payment of compensation in case the amount of compensation is paid in cash or till the date of redemption of the bonds, if compensation is paid in Government bonds.

5. *Compensation to be paid in cash or in bonds.*—The compensation payable under section 4 may be paid either in cash or in Government bonds carrying 4 per centum interest per annum and redeemable at the expiration of 6 years from the date of issue of bonds or partly in cash and partly in bonds, as may be prescribed.

6. *Interim compensation to be paid in case of delay in payment of compensation.*—(1) Where there is delay in the assessment or payment of compensation payable under section 4, Government may direct payment of interim compensation to such extent and in such manner as may be prescribed, provided that if the compensation payable to a Jenmi has not been determined in accordance with the provisions of this Act before the expiry of one year from the appointed day, Government shall, on the application of the Jenmi concerned direct the payment of an interim compensation.

(2) The interim compensation paid under sub-section (1) shall be deemed to be part of the compensation payable under this Act and shall be deducted from and adjusted against it.

(3) Where there is a dispute in regard to the right to the compensation amount or any portion thereof, no interim compensation or part as the case may be shall be paid to the Jenmi.

7. *Proceedings relating to payment of compensation to lie before Compensation Officer.*—All proceedings relating to the assessment of compensation payable to the Jenmi under section 4 and to the payment of the same to the persons entitled thereto shall lie before the Compensation Officer within whose jurisdiction the holding is situate.

8. *Jenmikaram Register presumed to describe correctly the right, title and interest of the Jenmi and Kudiyan.*—Every entry in the Register of Jenmikaram prepared or revised under the Travancore Jenmi and Kudiyan Act, 1071, and which is valid and effective immediately before the appointed day shall for the purpose of assessment and payment of compensation under this Act be deemed to describe correctly the right, title and interest of every Jenmi and Kudiyan in respect of the holding or part thereof to which it relates:

Provided that—

(a) any modification, alteration or correction made in the register under the Travancore Jenmi and Kudiyan Act or in consequence of any decree or order of any Court, shall be taken into account by the Compensation Officer.

(b) nothing contained in this section shall preclude the compensation officer from correcting, either on his own motion or on the application of any person interested, any clerical or arithmetical mistake or error apparent on the face of the record, if he is satisfied that such a mistake or error exists in any entry in the register.

9. *Compensation rolls to be prepared by the Compensation Officer.*—With a view to the payment of compensation to the Jenmies under this Act, the Compensation Officer shall in the manner prescribed, prepare a draft Compensation Roll of every Jenmi in respect of his holding showing:

(a) the jenmikaram in respect of the holding or part thereof;

(b) the names of persons entitled to receive the Jenmikaram;

(c) the Kudiyans liable to pay the jenmikaram in respect of the holding or part thereof;

(d) the amount of compensation payable under this Act; and

(e) such other particulars as may be prescribed.

10. *Publication of Draft Compensation roll.*—(1) After the draft compensation roll is prepared under section 9, the compensation officer shall—

(a) publish a notice in the Gazette and in such other manner as may be prescribed to the effect that the compensation roll has been prepared and is open to inspection by the person interested;

(b) serve or cause to be served on the Jenmi and the Kudiyan concerned a notice along with a copy of the compensation roll.

(2) The notice under sub-section (1) shall call upon all persons interested including members of the family of the Jenmi claiming any portion of such compensation whether by way of a share or by way of maintenance or otherwise, to appear and file objections and claims within such period as may be prescribed.

(3) If any objection is filed within the time prescribed, it shall be registered by the compensation officer who shall fix a date for hearing the same and shall give intimation thereof to the Jenmi concerned and to any person interested who may have appeared in reply to the notice under sub-section (2).

(4) On the date fixed or any date to which the proceedings are adjourned the Compensation Officer shall inquire into and decide the claims and objections.

(5) In hearing and deciding the objections filed under sub-section (3), the compensation officer shall, in so far as they may be applicable, have all the powers of a Civil Court, and subject to such modifications as may be prescribed, follow the procedure laid down in the Code of Civil Procedure, 1908, for the hearing and disposal of suits relating to immovable property.

11. *Orders of Compensation Officers to be deemed to be decrees of Civil Courts.*— (1) The order of the compensation officer in deciding an objection under section 9 or apportioning the compensation among the persons entitled thereto shall be deemed to be a decree of a Civil Court and shall contain a concise statement of the case, the points for determination, the decisions thereon and the reasons for such decision.

(2) Notwithstanding anything contained in any law, any person aggrieved by the order of the compensation officer may appeal within thirty days to the District Court having jurisdiction over the area and the order of the District Court upon such appeal shall be final:

Provided that the High Court, for the purposes of satisfying itself that an order made in any appeal decided by the District Court was according to law, may call for the records of the case and pass such order with respect thereto as it thinks fit within ninety days.

12. *Corrections to the final compensation rolls.*—Except as provided by or under this Act, no correction shall be made in the Compensation Roll after it has become final, provided that the Compensation Officer, having jurisdiction for the time being, may at any time, before the payment of compensation either of his own motion or on any application filed by a person interested, correct any clerical or arithmetical mistake or any error arising therein from any accidental slip or omission.

13. *Payment of compensation.*—(1) The compensation payable under this Act shall be paid to the persons whose names have been entered in the Compensation Roll as being entitled thereto.

(2) Where a person entitled to the compensation dies before it is paid to him, it shall be paid to his legal representatives.

(3) Where the person entitled to receive the compensation is a trust or endowment or a minor or a person suffering from some legal disability or a limited owner, the compensation may, notwithstanding anything contained in any law, but subject to any general directions that the State Government may give, be deposited for and on behalf of the person with such authority or Bank as may be prescribed.

(4) Where before any Court or authority any suit or proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the compensation payable under this Act, the Court or authority may require the Compensation Officer to place at its disposal the amount so payable and thereupon the same shall be disposed of in accordance with the orders of such Court or authority.

14. *Payment of compensation to be full discharge of the liability to pay jenmikaram.*—(1) The payment of compensation to the Jenmies or other persons entitled thereto in the manner prescribed by or under this Act shall be a full discharge of the liability for payment of Jenmikaram and no further claims for Jenmikaram or for payment of compensation shall lie.

(2) Notwithstanding anything to the contrary contained in this Act any arrear of Jenmikaram due to a Jenmi immediately prior to the commencement of this Act and remaining unpaid after such commencement may be recovered by or on behalf of the Jenmi in the same manner as before the commencement of this Act in six equal yearly instalments.

CHAPTER III.

RECOVERY FROM KUDIYANS OF THE COMPENSATION AMOUNTS PAID TO JENMIES

15. The Government shall be entitled to collect from each Kudiyan and each Kudiyan shall be liable to pay to the Government an amount calculated at 8 1|3 times the Jenmikaram payable by him to his Jenmi towards compensation for the extinguishment by the Government of his liability to pay Jenmikaram to his Jenmi and the conferment of full ownership on him in respect of his holding. The compensation recoverable from a Kudiyan shall, subject only to the priority of any tax or cess payable to the Government, be a first charge on the holding and shall be recovered from the Kudiyans in the manner hereinafter provided.

16. *Compensation recoverable in sixteen instalments.*—The Kudiyan shall be liable to pay to Government the compensation paid by Government under this Act in sixteen equal half-yearly instalments with interest at 5 per centum per annum, the first instalment commencing from such date as Government may notify, provided that nothing in this section shall be deemed to preclude a Kudiyan from paying at any time a larger sum than the amount of an instalment or from paying the whole amount due in one instalment. If any sum in excess of the amount of any instalment be paid, it shall be credited in reduction of the total amount due, the number of future instalments being, if necessary reduced, but no postponement, of subsequent instalment shall be permitted nor shall the alteration in the amounts of subsequent instalments allowed except in the final instalment, if such alteration is necessary to adjust the balance due. Where a Kudiyan pays the entire amount due in a lump sum on the date on which the first instalment is payable, he shall be allowed a rebate of 5 per centum of the amount so paid.

17. *Payment of compensation in the nearest treasury.*—All payments due under section 16 shall be paid at the nearest Government Treasury to the credit of the Government or at such other place and in such manner as Government may prescribe.

18. *Government may condone default.*—Government may by a general or special order notified in the Gazette, for sufficient reasons, postpone the payment of any instalment or condone the default.

19. *Kudiyan's continued liability to repay compensation in case of division or transfer of holding.*—Where a holding is divided or transferred by sale, gift or otherwise by a Kudiyan, he shall continue liable for the payment of the compensation amount due to Government unless such division or transfer is effected with the permission of the Collector or such other officer empowered in this behalf, and the necessary entries fixing the respective liabilities have been made in the revenue records in accordance with the division or transfer, provided that nothing in this section shall preclude Government to proceed against the entire holding and recover the amounts due to Government, leaving the parties to settle their claims against each other between themselves.

20. *Compensation recoverable under Revenue Recovery Act.*—Any amount due to the Government as arrears of compensation amount or otherwise may be recovered under the provisions of the Travancore-Cochin Revenue Recovery Act, 1951 (7 of 1951) as if they were arrears of public revenue due to the Government.

CHAPTER IV.

MISCELLANEOUS.

21. *Compensation Officer.*—The Government shall appoint compensation officers for the purpose of determining compensation payable under this Act and for the purpose of settling the amounts due to Government from Kudiyans.

22. *Compensation Officer a public servant.*—(1) Compensation officers appointed under section 21 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(2) The compensation officer shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters:—

(a) Summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving the evidence on affidavit; and

(d) requisitioning any public record or a copy thereof from any court or office.

23. *No action to lie against Government or any officer.*—(1) No suit or other legal proceedings shall lie against the Government for any act done or purporting to be done under this Act.

(2) No suit, prosecution or other legal proceedings shall be instituted against any officer or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.

24. *Rules.*—(1) The Government by notification in the Gazette make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the proportion in which the compensation may be paid in cash and in bonds;

(b) the extent and manner of payment of interim compensation;

(c) the manner in which the compensation roll has to be prepared;

(d) the time within which objections have to be preferred on the notice of compensation roll;

(e) the fee to be paid on the memorandum of appeal under sub-section (2) of Section 11;

(f) the authority or bank in which deposits may be made under sub-section (3) of Section 13;

(g) the date from which the payment of the 1st instalment of compensation by Kudiyan shall begin;

(h) the places where the compensation amount may be paid by the Kudiyan; and

(i) for all matters expressly required or allowed to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of previous publication.

(4) All rules made under this Act shall be published in the Gazette and shall have effect as if enacted in this Act.

(5) All rules made under this Act shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid.

25. *Difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

26. The Travancore Jenmi and Kudiyan Act, 1071 is hereby repealed:

Provided that such repeal shall not—

(a) revive anything not in force or existing at the time at which repeal takes effect, or

(b) affect the previous operation of the enactment so repealed or anything done or suffered thereunder.

(c) affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation or liability under the enactment so repealed and any such investigation, legal proceedings or remedy may be instituted, continued or enforced as if the said enactment had not been repealed.

SCHEDULE

(*See* Section 4)

Aggregate of the Jenmikaram due to a Jenmi.	*Compensation payable to the Jenmi.*
(*a*) Rs. 500 and below	12 times, the Jenmikaram less the collection charges.
(*b*) Above Rs. 500 but not exceeding Rs. 1,000	9 times, the Jenmikaram less collection charges subject to a minimum which is not less than the maximum amount payable under (a).

Aggregate of the Jenmikaram due to a Jenmi.	*Compensation payable to the Jenmi.*
(*c*) Above Rs. 1,000 but not exceeding Rs. 3,000	7 times, the Jenmikaram less collection charges subject to a minimum which is not less than the maximum amount payable under (b).
(*d*) Above Rs. 3,000 but not exceeding Rs. 7,000	5 times, the Jenmikaram less collection charges subject to a minimum which is not less than the maximum amount payable under (c).
(*e*) Above Rs. 7,000	4 times, the Jenmikaram less collection charges subject to a minimum which is not less than the maximum amount payable under (d).

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.